

Memorandum of Agreement
By and Between
Lincoln County and the City of Newport
Transfer of Big Creek Road
County Road # 402

This Agreement is made by and between Lincoln County and the City of Newport, pursuant to ORS Chapter 190, to establish the procedures and general timelines concerning the future potential transfer of jurisdiction and maintenance responsibility for Big Creek County Road, County Road # 402 (County Road) from its westerly location east to the termination of the improved area. It is understood and agreed that certain other related actions, including an amendment of the Newport Urban Growth Boundary (UGB)¹ and annexation of properties within the amended UGB to the city would need to occur before this agreement is implemented. It is also understood that the UGB amendment and annexation have independent and separate legal standards and procedures that must be met. Nothing in this agreement is intended to predetermine or guarantee the decisions in those contexts, and all standards and procedures must be met and followed in those separate actions.

The parties agree, however, that if the amendment of the UGB is accomplished and the property adjacent to the County Road is annexed into the City of Newport, then the County and City will initiate transfer of jurisdiction of the County Road to the City of Newport in accordance with the requirements of ORS 373.270. In doing so, it is understood and agreed that:

- County will be responsible for creating the legal description of the portion of the County Road right-of-way to be transferred. County and City agree that it is the intent of the parties for County to initiate legalization proceedings under ORS Chapter 368 for the portion to be transferred to the City. Legalization will be completed before annexation is completed. The parties understand and agree that the legalization will be initiated immediately after amendment of the UGB is complete.
- The City will accept the road as it is currently improved, unless otherwise mutually agreed by the parties. The parties have not identified any needed major improvements to the road needed before the transfer is completed. This does not preclude the County's obligation to maintain the road (for any repairs necessitated by disaster, slides or other unanticipated events) prior to completion of the transfer.
- The County will initiate the transfer following legalization and annexation. The City shall timely respond to the initiation in accordance with law.
- Notwithstanding ORS 373.270(7)(b), County will maintain the County Road after the transfer, provided the parties agree to and execute a routine maintenance

¹ An amendment request has already been approved by the City Council and is pending before the County. Nothing in this agreement is intended to require approval of the request by the County. The request shall be considered and acted upon in accordance with the requirements of Lincoln County Code, Chapter 1, Land Use Planning, and applicable laws and rules.

agreement outlining these obligations. Such an agreement will specify the nature of the maintenance work to be performed by the County, associated costs, and the manner in which those costs will be billed to the City. The agreement may also identify one-time minor improvements, including guardrail repairs, for County to undertake at no cost to the City. It is the intent of both parties that the agreement be prepared and presented as part of the transfer proceedings.

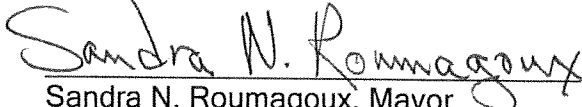
- The parties understand that the law reserves certain decisions to the governing bodies of the respective parties, and nothing in this agreement shall divest those governing bodies of their authority.

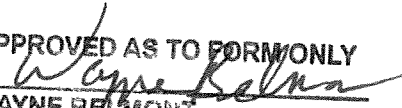
So Understood and Agreed this 23rd day of April, 2014:

Lincoln County

City of Newport


Terry Thompson, Chair


Sandra N. Roumagoux, Mayor

APPROVED AS TO FORM ONLY

WAYNE BELMONT
LINCOLN COUNTY COUNSEL